

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

KENNETH L. STOREY #237064,

Plaintiff,

v.

3:03-cv-488

KNOX COUNTY, TENNESSEE, et al.,

Defendants.

**MEMORANDUM AND ORDER**

This *pro se* prisoner's complaint was dismissed as time-barred on December 21, 2004. On May 1, 2006, the court received a copy of a petition for writ of mandamus, in which the plaintiff asked the United States Court of Appeals for the Sixth Circuit to order this court to rule on his pending motion to reconsider the dismissal of his case. In response, this court informed the Sixth Circuit that, according to the district court docket sheet, a motion to reconsider was never received by the court. The Sixth Circuit then denied the petition for writ of mandamus.

Nevertheless, in its Order the Sixth Circuit noted that, attached to plaintiff's petition for writ of mandamus, was documentation from the prison mail room lending support to plaintiff's assertion that he placed a motion for reconsideration in the prison mail system no

later that December 31, 2004. According to plaintiff, the motion for reconsideration was mailed to both this court and the Office of the Knox County Law Director. The Sixth Circuit thus suggested this court examine its files to determine whether the motion was received but misplaced, and perhaps also contact the Knox County Law Director's Office to determine whether it received the motion. The Sixth Circuit further noted that, if the motion was in fact properly and timely mailed, this court could in its discretion file the motion as of the date it was placed in the prison mail system.

This court has been in contact with the Office of the Knox County Law Director. That office in fact received the motion to reconsider and placed it in a file maintained for plaintiff's pleadings; the Knox County Law Director's Office has forwarded the motion to this court. The envelope bears a prison mail room stamp of December 31, 2004. Accordingly, the Clerk is **DIRECTED** to file the motion to reconsider as of December 31, 2004. After review of the motion to reconsider, however, the court finds it lacks merit and the motion to reconsider is **DENIED**.

**E N T E R:**

s/ Thomas W. Phillips  
United States District Judge